Office-Supreme Court
FILED
APR 2 198
ALEXANDER L. STE
CLERK

NO. 80-1173

In the Supreme Court of the United States

October Term, 1980

J.F. HOFF ELECTRIC COMPANY,
Petitioner

v.

NATIONAL LABOR RELATIONS BOARD AND LOCAL UNION 323, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
Respondents

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the District of Columbia Circuit

OBJECTION OF RESPONDENT, LOCAL UNION 323, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS TO THE CHAMBER OF COMMERCE'S MOTION FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE*

Steven Bloom
Counsel of Record
Joseph H. Kaplan
KAPLAN, SICKING, HESSEN
SUGARMAN, ROSENTHAL &
DE CASTRO, P.A.
1951 N.W. 17th Avenue
P.O. Drawer 520337
Miami, Florida 33152
(305) 352-1661

Counsel for Respondent
Local Union 323
International Brotherhood of
Electrical Workers

No. 80-1173

In the Supreme Court of the United States

October Term, 1980

J.F. HOFF ELECTRIC COMPANY,
Petitioner

v.

NATIONAL LABOR RELATIONS BOARD AND LOCAL UNION 323, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
Respondents

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the District of Columbia Circuit

OBJECTION OF RESPONDENT, LOCAL UNION 323, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS TO THE CHAMBER OF COMMERCE'S MOTION FOR LEAVE TO FILE A BRIEF *AMICUS CURIAE*

Respondent, Local Union 323, International Brotherhood of Electrical Workers, files this Objection to the Motion of the Chamber of Commerce for leave to file a Brief *Amicus Curiae* in accordance with Rule 36.3, Rules of the Supreme Court.

I. THE ARGUMENT OF THE PETITIONER IS WELL PRESENTED AND DOES NOT REQUIRE ADDITIONAL ARGUMENT BY THE CHAMBER OF COMMERCE

The Chamber of Commerce has admitted that "counsel for Petitioner has represented the interests of his client well". Motion of the Chamber of Commerce, page ii.

Since Petitioner's contentions are thoroughly and competently advanced, there is no need to obfuscate the issues in this case by allowing the Chamber of Commerce to file a duplicative brief.

II. THE ISSUES IN THIS CASE ARE SIMPLE AND FOLLOW LONG ESTABLISHED PRECEDENT

The central issue in this case is whether a construction site gate may be picketed when supplies intended for the primary employer are delivered through that gate.

This issue has long ago been resolved by this Court in *United Steelworkers v. NLRB (Carrier Corp.)*, 376 U.S. 492, 499 (1964); *Local 761, International Union of Electrical Workers v. NLRB*, 371 U.S. 667, 681 (1961); and has repeatedly been applied to suppliers at common situs construction projects; *see, e. g., Building and Construction Trades Council of New Orleans (Markwell & Hartz, Inc.)* 155 NLRB 319 (1965), *enf.* 387 F 2d 79 (5th Cir. 1967), *cert. den.* 391 U.S. 914 (1968).

The proposed brief of the *amicus curiae* unnecessarily seeks to complicate the issue in this case by arguing that the purchase of the supplies by the owner-developer, installed and used by

the primary employer, involves consideration of "neutral employers" under this Court's decision in *NLRB v. Denver Building and Construction Trades Council*, 341 U.S. 675 (1951). Such a contention, thoroughly argued by Petitioner, attempts to avoid the real issue in this case—whether a union may picket a gate at a construction site if supplies intended for use by the primary employer are delivered through that gate.

The brief of the Chamber of Commerce adds confusion to a simple, uncomplicated case and Motion for leave to file a brief *amicus curiae* should be denied.

III. CONCLUSION

The Chamber of Commerce's interest in this case, and its proposed brief, is duplicative of that of the Petitioner and serves to confuse, rather than clarify, the issues presented. For these reasons, the Motion for leave to file a brief *amicus curiae* should be denied.

Respectfully submitted,

STEVEN BLOOM
JOSEPH H. KAPLAN
Kaplan, Sicking, Hessen, Sugarman,
Rosenthal & De Castro, P.A.
Attorneys for Respondent
Local 323, International Brotherhood
of Electrical Workers
1951 N.W. 17th Avenue
P.O. Drawer 520337
Miami, Florida 33152
Telephone: (305) 352-1661

By:_____
STEVEN BLOOM
Counsel of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection of Respondent, Local 323, International Brotherhood of Electrical Workers, to the Chamber of Commerce's Motion for Leave To File A Brief *Amicus Curiae* was deposited in the United States mail, with first-class postage prepaid and addressed to:

WILLIAM R. RADFORD, ESQ.
Seyfarth, Shaw, Fairweather &
Geraldson
One Biscayne Tower
Two South Biscayne Boulevard
Miami, Florida 33131

WADE H. McCREE, JR., ESQ.
Solicitor General
Department of Justice
Tenth and Constitution Avenue, N.W.
Washington, D.C. 20570

RICHARD B. BADER, ESQ.
National Labor Relations Board
Washington, D.C. 20570

ROGER S. KAPLAN, ESQ.
261 Madison Avenue
New York, New York 10016

on this 30th day of March, 1981.

STEVEN BLOOM